

GOVERNMENT OF TELANGANA
ABSTRACT

Telangana Charitable and Hindu Religious Institutions and Endowments Act, 1987 – Section 93 - Revision Petition Dt:24-09-2007 filed by Smt Nagamma (Died as per LRs), A. Ashok, s/o Shivaiah, A.Balakrishna, s/o Shivaiah – Disposed – Reg.

Revenue (Endowment.II) Department

G.O.RT.No. 371

Dated: 22-08-2016
Read the following:-

1. RJC, Endowments, Hyderabad, RP Nos.21 and 22/2001, dated:06.03.2003.
2. High Court of Judicature WP No.8613/2016, Dt:31.3.2016.

ORDER

This Revision Petition filed under section 93 of Telangana Charitable and Hindu Religious Institutions and Endowments Act, 1987, herein after called " the Act ", is directed against the order of the Regional Joint Commissioner first read above, wherein the order of Deputy Commissioner, Endowments, Hyderabad ordering eviction of the petitioners from the subject matter premises no.15-6-148 and 149, Kolsawadi, Begum bazaar belonging to Sri Jagannatha Swamy Temple was upheld.

2. The Counsel for the petitioners in his written and oral arguments submitted that the petitioners have been residing in the subject matter property since more than 40 years by paying the admitted rents to the concerned founder family member of the subject temple from time to time. The eviction OAs, however, were filed only against the petitioners leaving aside the other tenants of the temple property who are paying less amounts. Even after the eviction orders, they have been paying rents to the temple authorities and they have been always willing to pay the rents, but the trustee of the subject temple refused to receive the same, due to which the rents could not be paid subsequent to the year 2002. It is also contended that the petitioners spent money on restoration of structures in the subject meant property, that the temple is not being properly managed by the trustees, it is in dilapidated condition, the founder family members are not residing near the subject temple. It is finally contended that the trustees have subjected only the petitioners to eviction proceedings by not taking rents and the petitioners undertake to pay the rents reasonably fixed, including arrears and hence the Revision Petition may be allowed.

3. The founder family member trustee of the subject temple, who is impleaded in the Revision Petition, in his counter and in the oral arguments submitted by his counsel contended that the Revision Petition is barred by limitation and hence is liable to be dismissed in limini, as the delay of about five years is not explained. It is also contended that as the petitioners failed to pay monthly rents, a legal notice was issued to them on 27.02.1995 to vacate the subject matter premises comprising four rooms and a shop and an application was filed before the Assistant Commissioner. The Assistant Commissioner after enquiry reported the same to the Deputy Commissioner who took up the case as OA no.68 and 69 of 1995 and after considering the counter filed by the petitioners herein, as also evidence marked as exhibits A1 – A7, and after due enquiry passed order on 20.04.2001 declaring the petitioners herein as encroachers. It is further contended that the Deputy Commissioner in his order rightly observed that the petitioners herein defied the interim orders of the said authority and failed to deposit the

amount specified therein and hence come within the definition of encroacher as defined under section 83(1) of the Act. It is also contended that both the authorities below have held against the petitioners and the present Revision Petition is filed only to harass the subject temple and the petitioners have also failed to comply with their own compromise petition separately filed by them before the Commissioner, Endowments in spite of several opportunities and the Commissioner, Endowments accordingly dismissed their compromise petition by an order dated: 04.05.2007. It is finally submitted that the subject temple is put to severe financial loss due to the chronic default of the petitioners and the property is also undergoing damage and hence the Revision Petition may be rejected.

4. The Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh in its order in W.P No8313 of 2016 Dt:31.03.2016 read above passed the following order.

As seen from the material on record as far back as on 20.04.2001, the 3rd respondent has found respondents 5 & 6 as encroachers. Further, respondents 5 and 6 did not succeed in the appeal before the Regional Joint Commissioner, Endowments, Hyderabad who dismissed the appeal on 06.03.2003. Thereafter, the 2nd respondent consider the recommendation of the 4th respondent dated:10.12.2013 to extend the lease for the period of 01.01.2013 to 31.12.2006 on enhanced lease of Rs.1,200/- per month and rejected the same on 04.05.2007. while rejecting the proposal made by the 4th respondent, the 2nd respondent had categorically recorded that respondents 5 and 6 have not made any payment for 14 years. In other words, all the authorities came to the conclusion that respondents 5 and 6 are chronic defaulters and they have been squatting on the property in spite of the specific findings recorded that they are encroachers. It is understandable as to how Government in ostensible exercise of powers under Section 93 of the A.P Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act') has stalled the entire process of eviction of encroachers.

Learned Government Pleader submits that even as on today, Revision Petitions filed by respondents 5 and 6 are pending and no orders are passed. However, in all fairness the learned Government Pleader on instructions from the 2nd respondent (CED), submits that a time frame may be fixed to pass orders under Section 93 of the Act to dispose off the Revision.

In that view of the matter, there shall be a direction to respondents 1 and 2 to complete the entire exercise of passing orders in the Revision Petitions filed by respondents 5 and 6 within six weeks from the date of receipt of this order.

5. Section 93 of the Act provides that the Government may either suo motu or on an application call for and examine the record of the Commissioner or Deputy Commissioner or any Assistant Commissioner or any other officer subordinate to them, or of any Executive Officer or any trustee of a charitable or religious institution or endowment, other than a math or specific endowment attached to a math in respect of any administrative or quasi-judicial decision taken or order passed under this Act, but not being a proceeding in respect of which a suit or an appeal or application, or a reference to court is provided by this Act, to satisfy themselves as to the correctness, legality or propriety of such decision or order taken or passed, and if in any case, it appears to the Government that such decision or order should be modified, annulled, reversed or remitted for reconsideration, they may pass orders accordingly.

6. In the instant case both the authorities below, after due consideration of evidence and inquiry after notice to both the parties came to the conclusion that the petitioners are chronic defaulters and come within the definition of encroachers under the relevant provision of the Act, liable for eviction. The attempts that are stated to have been made by the petitioners for payment of rent, which are cited in the Revision Petition, are apparently subsequent to the initiation of eviction proceedings on behalf of the subject temple and passing of orders by the Deputy Commissioner. The other grounds urged in the Revision Petition are not relevant to the issue under consideration. Government do not observe any lack of correctness, or illegality, or impropriety in the impugned order of the Regional Joint Commissioner to warrant interference under section 93 of the Act.

7. The Revision Petition is accordingly dismissed.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

N.SIVA SANKAR
SECRETARY TO GOVERNMENT (FAC)

To
Commissioner of Endowments Department,
Hyderabad, Telangana State
The Regional Joint Commissioner, Endowments Hyderabad
The Deputy Commissioner, Endowments Hyderabad
The Assistant Commissioner of Endowments, Hyderabad

Smt Nagamma W/o Late Shivaiah, Occ. House Hold, 15-6-149 Kosalwadi,
Begum Bazar, Hyderabad through A.C Endowments, Hyderabad

Sri Ashok S/o Late Shivaiah, Occ Electrician, 15-6- 148 Kosalwadi, Begum
Bazar Hyderabad through A.C Endowments, Hyderabad

Sri Rajesh Dubey S/o Late R.P Dubey Advocate H.No.3-4-28 Kachiguda
Railway Station Hyderabad through A.C Endowments, Hyderabad

M/s Sri D.Sudarsan Reddy (AP.724/95) Advocate through A.C
Endowments, Hyderabad.

The PS to Secretary to Government, Endowments Dept.,
The G.P for Endowment, High Court, Hyderabad
SF/SC

//FORWARDED BY ORDER//

SECTION OFFICER